



June 21, 2002

Ms. Ashley D. Fourt
Assistant District Attorney
Tarrant County
401 West Belknap
Fort Worth, Texas 76196-0201

OR2002-3395

Dear Ms. Fourt:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 164709.

The Tarrant County Sheriff's Department (the "sheriff's department") received a request for copies of information pertaining to bailiff escorts to impact court for the month of January 1990 concerning a former Tarrant County inmate. You claim that the sheriff's department need not comply with the request under section 552.028 of the Government Code and that the requested information is excepted from disclosure under section 552.103 of the Government Code. We have considered your arguments and your claimed exception to disclosure.

Section 552.028 of the Government Code states:

(a) A governmental body is not required to accept or comply with a request for information from:

- (1) an individual who is imprisoned or confined in a correctional facility; or
- (2) an agent of that individual, other than that individual's attorney when the attorney is requesting information that is subject to disclosure under this chapter.

(b) This section does not prohibit a governmental body from disclosing to an individual described by Subsection (a)(1), or that individual's agent, information held by the governmental body pertaining to that individual.

(c) In this section, "correctional facility" means a place designated by the law of this state, another state, or the federal government for the confinement of a person arrested for, charged with, or convicted of a criminal offense.

Gov't Code § 552.028. You indicate that the requestor is an agent of the inmate who is the subject of this request. Further, you state that your office has received numerous requests in the past that were similar to the present request from requestors who have all been agents of this inmate. Finally, you explain that the subject of the request is an inmate who is now in the custody of the Texas Department of Corrections. Based on your representations, we conclude that the provisions of section 552.028 of the Government Code govern your request. Because the individual requesting the information at issue is an agent of an individual imprisoned in a correctional facility, the Public Information Act gives the sheriff's department the discretion to either "comply with" this open records request or deny it in its entirety. Because you wish to deny the request in its entirety under section 552.028, we conclude that you may do so with regard to the entirety of the requested information. Consequently, we need not address your remaining claim regarding section 552.103 of the Government Code.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one

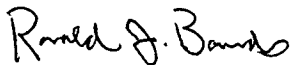
of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Ronald J. Bounds
Assistant Attorney General
Open Records Division

RJB/seg

Ref: ID# 164709

cc: Mr. Orlando Mata
2401 La Vista #35
McAllen, Texas 78501
(w/o enclosures)